

associated features as noted on page 4 of the Office Action, but alleges that Bares overcomes the deficiencies of Fillion. Applicant respectfully disagrees.

The Office Action alleges that Bares teaches a monitoring period at col. 5, lines 4-11 and 27-56 and col. 4, lines 19-37. Applicant disagrees. In fact, what Bares does disclose is a system that adapts settings due to continuous monitoring. See, for example, Bares at col. 2, lines 41-62. The cited portion of Bares refers to continuously monitoring keys to determine whether or not they have been pressed in order to change settings on the printer. See Bares at col. 5, lines 20-25. This is not a monitoring period in accordance with the present invention.

As one of ordinary skill in the art would clearly understand upon reading the specification and claims, the monitoring period of claim 1 is different from the continuous monitoring disclosed in Bares. For example, in paragraph [0086] of the originally filed specification, the monitoring period represents a period during which reception of a modification request with respect to the functional parameters (as shown in Fig. 3A) is received from another user. Fig. 3A clearly shows the monitoring period as a finite time. Further, Bares does not teach the monitoring period of claim 1 because claim 1 recites that the modification control system modifies operational parameters . . . if the monitoring period has expired, and Bares does not teach a monitoring period that expires. That is, Bares only teaches a continuous monitoring period. Thus, Bares fails to teach or suggest a monitoring period as recited in claim 1 because Bares teaches continuous (indefinite) monitoring.

Assuming *arguendo* that the monitoring period of claim 1 reads on the indefinite monitoring period of Bares, then Bares fails to teach modification control system modifies operational parameters . . . if the monitoring period has expired. That is, one of ordinary skill would not have interpreted Bares as modifying anything after expiration of the monitoring period because Bares teaches an indefinite monitoring period.

Additionally, Applicant respectfully asserts that the obviousness rejection is not supported with a clear and explicit articulation of the reasons why the claimed invention allegedly would have been obvious. See MPEP §§2141(III) and 2142, citing *KSR*.

"[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *Id.*, quoting *KSR* in turn quoting the Federal Circuit's *In re Kahn* decision with approval. The Office Action, on page 6, allegedly justifies the combination of Filion, Bares and Simpson with a recitation of what the combination would achieve. The Office Action fails to explain why it would have been obvious to combine features from three different references. Such a statement fails to make all of the findings of fact necessary in conjunction with the stated rationale allegedly supporting the conclusion of obviousness. See MPEP §2143(A-G).

Further, Applicant discovered the source of the problem to be solved by the claimed invention. As described in paragraphs [0005] and [0006] of the originally filed specification, the prior art either allows unrestricted modification of functional parameters or overly restrictive modification of functional parameters. The prior art fails to recognize this problem. Thus, the Office Action fails to consider the subject matter as a whole. See MPEP §§2141.02(III) and (IV). In this regard, the claimed invention also provides a solution to a disadvantage of the prior art. See MPEP §2145(X)(D)(3). The monitoring period of claim 1 allows restriction of operational parameters, when necessary, and removes the restriction when not necessary. See paragraphs [0005] to [0007] of the originally filed specification.

Independent claims 39, 42 and 45 are rejected for the same reasoning as claim 1. Thus, these claims are patentable at least for the reasons discussed above with respect to claim 1.

In rejecting claim 21, the Office Action admits that the applied references do not disclose that monitoring is based on a number of executed operations set by a user. The Office Action relies on the reasoning set forth in rejecting claim 1 and states that the difference is obvious.

Applicant asserts that, because the rejection of claim 21 relies on the reasoning set forth in claim 1, claim 21 is patentable at least for the reasons discussed above with respect to claim 1.

The Office Action's rejection of claims 40 and 43 relies upon the reasoning set forth for claim 21. Thus, claims 40 and 43 are also patentable for the same reasons as discussed above with respect to claim 1.

Claims 3-8, 10-15, 20, 22-25, 27-32, 37, 46, 47, 49, 50, 52, 53 and 55-57 are patentable by reason of their dependency from one of independent claims 1, 21, 39, 40, 42, 43 and 45, as well as for the additional features they recite.

It is respectfully requested that the rejection be withdrawn.

Claims 16-19 and 33-36 are rejected under 35 U.S.C. §103(a) over Filion, Bares, Simpson and Official Notice. The rejection is respectfully traversed.

Claims 16-19 and 33-36 are patentable by reason of their dependency from one of independent claims 1 and 21, as well as for the additional features they recite because Official Notice fails to overcome the deficiencies of Filion, Bares and Simpson.

It is respectfully requested that the rejection be withdrawn.

Claims 9 and 26 are rejected under 35 U.S.C. §103(a) over Filion, Bares, Simpson and Nakamura et al., U.S. Patent Application Publication No. 2002/0161740. The rejection is respectfully traversed.

The rejection of claims 9 and 26 is premised upon Filion, Bares and Simpson teaching or suggesting all of the features of independent claims 1 and 21. As discussed above, these

references fail to do so. Further, Nakamura fails to overcome the deficiencies of these references. Thus, claims 9 and 26 are patentable by reason of their dependency from independent claims 1 and 21, as well as for the additional features they recite.

It is respectfully requested that the rejection be withdrawn.

Claims 38 and 48 are rejected under 35 U.S.C. §103(a) over Filion in view of Bares, Simpson and Armstrong et al., U.S. Patent Application Publication No. 2004/0039779. The rejection is respectfully traversed.

The rejection of these claims is premised upon Filion, Bares and Simpson teaching or suggesting all of the features of independent claim 1. As discussed above, the applied references fail to do so. Further, Armstrong fails to overcome the deficiencies of Filion, Bares and Simpson. Thus, claims 38 and 40 are patentable by reason of their dependency from independent claim 1, as well as for the additional features they recite.

It is respectfully requested that the rejection be withdrawn.

Claims 41, 44, 51 and 54 are rejected under 35 U.S.C. §103(a) over Filion, Simpson and Armstrong. The rejection is respectfully traversed.

As discussed on page 23 of the Amendment filed on June 26, 2009, Applicant respectfully asserts that one of ordinary skill in the art would not have combined the references. The arguments are repeated here for the Examiner's convenience.

Armstrong is directed toward real time chat over a computer network. As discussed during the June 15, 2009 personal interview, Applicant respectfully asserts that the combination of Armstrong with Filion and Simpson is based upon impermissible hindsight because none of the applied references teach or suggest that real time chat could have been combined with the teachings of Filion and Simpson. Thus, Applicant asserts that the combination of Filion, Simpson and Armstrong involves impermissible hindsight using

knowledge gleaned only from Applicant's disclosure. Such hindsight reconstruction of the claimed invention is improper. See MPEP §2145(X)(A).

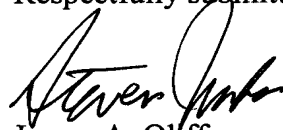
The Office Action, on page 3, states that Applicant's Amendment necessitated the new grounds of rejection. However, no amendment was made to these claims. Applicant requests that the Examiner respond to these arguments.

It is respectfully requested that the rejection be withdrawn.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



James A. Oliff  
Registration No. 27,075

Steven D. Jinks  
Registration No. 62,760

JAO:SDJ/rle

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**OLIFF & BERRIDGE, PLC**  
**P.O. Box 320850**  
**Alexandria, Virginia 22320-4850**  
**Telephone: (703) 836-6400**

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